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OFFICE OF PETITIONS

In re Application of :  
Victor Batinovich :  
Application No. 10/047,858 : DECISION GRANTING PETITION  
Filed: January 14, 2002 : UNDER 37 CFR 1.137(b)  
Attorney Docket No. AIS-P1208 :  
(033391-011)

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 29, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 30, 2003. A Notice of Abandonment was mailed on March 9, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the \$750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 29, 2003 is accepted as having been unintentionally delayed.

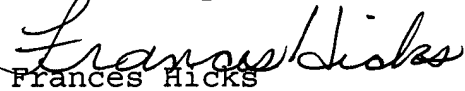
The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$510 extension of time submitted with the petition on April 7, 2006

was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2839 for appropriate in the normal course of business on the reply received April 7, 2006.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions